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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,672

10/17/2003

Takeya Sakai

Q78001

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23373

7590

04/25/2005

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EXAMINER

NGUYEN, THANH NHAN P

ART UNIT

PAPER NUMBER

2871

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/686,672	<b>Applicant(s)</b> SAKAI ET AL.	
	<b>Examiner</b> (Nancy) Thanh-Nhan P. Nguyen	<b>Art Unit</b> 2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/17/2003</u> . | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

1. First, applicants' election with traverse of Group I including claims 1 and 3 in the reply filed on 2/8/2005 is acknowledged.

Second, since the election was incomplete, examiner requested the applicants to elect species in Group I by phone with Mr. Brian W. Hannon; species A (claim 1) was elected on 4/13/2005.

Applicants' arguments regarding the restriction requirement have been considered. However, the traversal was on the grounds is not found persuasive since the subcombinations (Group I and Group II) are distinct from each other. For instance, a retardation film can be prepared by stretching a polymer uniaxially or biaxially, subjecting a polymer to z-axis orientation, or coating a liquid crystal polymer on a base. Group II/Invention II has separate utility for producing the retardation film such as forming a film from a photosensitive material, and irradiating the film with a light from a direction inclined with respect to the film surface with optional heating and cooling of the film. Besides, a method/process claim should not be dependent on a device claim because if it is the case, that claim would be treated as process/device claim.

Therefore, the requirement is deemed proper and is considered to be final.

2. Claim 1 is presented for examination.

Claims 2-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abileah U.S. Patent No. 6,359,671 in view of Miyachi et al U.S. Patent No. 6,493,053.**

Abileah discloses a retardation film (204 or 207) having a birefringence wherein a first biaxial index ellipsoid having primary refractive indexes  $n_x$ ,  $n_y$ , and  $n_z$  in X, Y, and Z axis directions, respectively, satisfy a relationship of  $n_x \neq n_y \neq n_z$  ( $n_x > n_z > n_y$ ), X and Y axes being parallel to a film surface and a Z axis being normal to the film surface, [see figs. 12A-12E; and col. 16, lines 50-51].

Abileah lacks disclosure of the retardation film has primary refractive indexes  $n_x'$ ,  $n_y'$ , and  $n_z'$  of a biaxial index ellipsoid which is obtained by rotating the first biaxial ellipsoid at an arbitrary rotational angle  $\theta_1^\circ$  about the X axis as an axis of rotation and at an arbitrary rotational angle  $\theta_2^\circ$  about the Y axis as an axis of rotation.

Miyachi et al discloses the retardation film has primary refractive indexes  $n_x'$  ( $n_b$ ),  $n_y'$  ( $n_a$ ), and  $n_z'$  ( $n_c$ ) of a biaxial index ellipsoid which is obtained by rotating the first biaxial ellipsoid at an arbitrary rotational angle  $\theta_1^\circ$  about the X (b) axis as an axis of rotation and at an arbitrary rotational angle  $\theta_2^\circ$  ( $\theta_1$ ) about the Y (a) axis as an axis of

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rotation, [see fig. 1, abstract, and col. 15, lines 12-29], for the benefit of improving the viewing angle dependency, [see col. 13, line 3]. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have the retardation film having the primary refractive indexes  $n_x'$ ,  $n_y'$ , and  $n_z'$  of a biaxial index ellipsoid which is obtained by rotating the first biaxial ellipsoid  $n_x$ ,  $n_y$ , and  $n_z$  at an arbitrary rotational angle  $\theta_1^\circ$  about the X axis as an axis of rotation and at an arbitrary rotational angle  $\theta_2^\circ$  about the Y axis as an axis of rotation for the benefit of improving the viewing angle dependency.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abileah U.S. Patent No. 6,359,671 discloses a retardation film having a birefringence wherein a first biaxial index ellipsoid having primary refractive indexes  $n_x$ ,  $n_y$ , and  $n_z$  satisfy a relationship of  $n_x \neq n_y \neq n_z$ , where X and Y axes being parallel to a film surface and a Z axis being normal to the film surface.

Miyachi et al U.S. Patent No. 6,493,053 discloses the retardation film has primary refractive indexes  $n_x'$ ,  $n_y'$ , and  $n_z'$  of a biaxial index ellipsoid which is obtained by rotating the first biaxial ellipsoid  $n_x$ ,  $n_y$ , and  $n_z$  at an arbitrary rotational angle  $\theta_1^\circ$  about the X axis as an axis of rotation and at an arbitrary rotational angle  $\theta_2^\circ$  about the Y axis as an axis of rotation.

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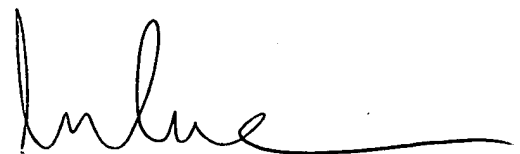
Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Nancy) Thanh-Nhan P. Nguyen whose telephone number is 571-272-1673. The examiner can normally be reached on M-F/9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 15, 2005

TN



DUNG T. NGUYEN  
PRIMARY EXAMINER